

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

In re:

SURGALIGN HOLDINGS, INC., et al.

RYAN MESSNER,

Plaintiff(s),

v.

SURGALIGN HOLDINGS, INC.,

Defendant(s).

) Chapter 11

OCT 04 2023

Nathan Ochsner, Clerk of Court

) Case No. 23-90731

) Adversary Proceeding

) Case No. 23-03150

MOTION FOR ENTRY OF DEFAULT FINAL JUDGEMENT

Plaintiff(s), RYAN MESSNER, pro se, moves the Court for entry of a default judgment as to defendant SURGALIGN HOLDINGS, INC., upon the complaint heretofore filed and served upon the defendant, in accordance with the provisions of Rule 55(b)(2), Federal Rules of Civil Procedure, and in support thereof shows the Court the following.

On August 11, 2023, RYAN MESSNER filed in the United States Bankruptcy Court, Southern District of Texas, Houston Division, a Complaint alleging failure to disclose information, and for misrepresenting pertinent information investors use to make decisions, in conjunction with §523(a)(2), false pretenses, false representation, and actual fraud. A copy of said Complaint is attached hereto as Exhibit A and is incorporated herein by reference.

On September 8, 2023, a copy of said Complaint and a Summons in a Civil Action were served by the United States Postal Service upon SURGALIGN HOLDINGS, INC., at 520 Lake Cook Road, Suite 315, Deerfield, Illinois 60015. A copy of the Process Receipt, USPS E-pad Proof of Delivery letter (Green Return Receipt lost by USPS), and Summons is attached hereto as Exhibit B and is incorporated herein by reference.

On September 8, 2023, a copy of said Complaint and a Summons in a Civil Action were served by the United States Postal Service upon WHITE & CASE LLP, at 111 South Wacker Drive,

Suite 5100, Chicago, Illinois 60606. A copy of the Process Receipt, USPS E-pad Proof of Delivery letter, Green Return Receipt, and Summons is attached hereto as Exhibit C and is incorporated herein by reference.

On September 8, 2023, original Certificate of Service forms for both SURGALIGN HOLDINGS, INC. and WHITE & CASE LLP., were mailed to Nathan Ochsner, Court Clerk, United States Bankruptcy Court, Southern District of Texas, Houston Division. A copy of the Process Receipt, Certificate of Service Forms, and USPS Proof of Delivery is attached hereto as Exhibit D and is incorporated herein by reference.

On October 3, 2023, after 21 calendar days had elapsed since the service of said Complaint and Summons upon defendant, and no Answer thereto having been served by defendant upon RYAN MESSNER, RYAN MESSNER is entitled to judgment by default against defendant, pursuant to Fed.R.Civ.Proc. 55.

Pursuant to the provisions of Rule 55(b)(2), Federal Rules of Civil Procedure, this Court is empowered to enter a default judgment against the defendant for relief sought by plaintiff in its complaint, and written notice of this action has been given to defendant, and it's counsel.

PRAYER

WHEREFORE, plaintiff prays that this Court enter a judgment of default against defendant.

AFFIDAVIT

I, RYAN MESSNER, do hereby certify that the statements and allegations set forth in the foregoing Motion and the accompanying Exhibits are true and accurate, to the best of my knowledge and belief.

RESPECTFULLY SUBMITTED,



Ryan Messner, Plaintiff, pro se
ryanmessner@hotmail.com
570 Camphor Way
Lexington, KY 40509
859.559.7985

**Exhibit A
(Complaint)**

United States Courts
Southern District of Texas
FILED

AUG 11 2023

Nathan Ochsner, Clerk of Court

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:)	Chapter 11
SURGALIGN HOLDINGS, INC., et al.)	
)	
)	
)	
)	
RYAN MESSNER,)	
Plaintiff(s),)	Case No. 23-90731
)	
v.)	
SURGALIGN HOLDINGS, INC.,)	
Defendant(s).)	

COMPLAINT

Plaintiff(s), RYAN MESSNER, pro se, files this Complaint pursuant to damages resulting from failure to disclose information, and for misrepresenting pertinent information investors use to make decisions, in conjunction with §523(a)(2), false pretenses, false representation, actual fraud, and alleges the following in support of the requested relief:

JURISDICTION

1. This is an adversary proceeding in which the Plaintiff(s) is seeking Recovery of Money pursuant to FRBP 7001(1), and deny the discharge in bankruptcy of any debtor who has committed any acts of fraud, misrepresentation, deceit, or false pretenses under §523(a)(2).
2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(1).
4. Plaintiff has standing to bring this action pursuant to 28 U.S.C. § 157(2)(O).
5. Venue is proper pursuant to 28 U.S.C. § 1409(a) and Local Rules of the United States Bankruptcy Court for the Southern District of Texas.

BACKGROUND FACTS

6. Fraud by PREVIOUS management has already been established and settled with the SEC "In the Matter of Surgalign Holdings, Inc., et al. Admin. Proc. File No. 3-20945," in which said management shipped orders weeks or months before its customers had originally requested delivery, thereby pulling sales forward from future quarters, to address projected quarterly revenue shortfalls.

The fact remains that CURRENT management of SURGALIGN HOLDINGS, INC. did not disclose this pertinent financial information in a written press release, until AFTER the aforementioned SEC settlement was reached, and a press release was then issued in that regard on August 3, 2022. Why would the CURRENT management choose not to issue a press release in 2020 upon commencement of the merger with PREVIOUS management and their falsified pull-forward scheme, but did choose to issue a press release once they had settled with the SEC?

CURRENT management failed to disclose information, and misrepresented pertinent details investors use to make decisions, as with the complaint issued herein. Plaintiff would not have invested in SURGALIGN HOLDINGS, INC. if all pertinent financial information would have been disclosed by CURRENT management at the time of merger with PREVIOUS management.

Based on these facts, Plaintiff alleges Securities Fraud pursuant to 15 U.S.C. § 78(b) and False and Misleading Statements pursuant to 15 U.S.C. § 78ff.

WHEREFORE, the Plaintiff, RYAN MESSNER, respectfully request(s) that the Court approve the Recovery of Money pursuant to FRBP 7001(1), and deny the discharge in bankruptcy of any debtor who has committed any acts of fraud, misrepresentation, deceit, or false pretenses under §523(a)(2), for such other and further relief the Court deems appropriate.

RESPECTFULLY SUBMITTED,



Ryan Messner, Plaintiff, pro se
ryanmessner@hotmail.com
570 Camphor Way
Lexington, KY 40509
859.559.7985

Exhibit B

(Process Receipt, Return, and Summons)

UNITED STATES POSTAL SERVICE.			
LEXINGTON 1088 RANDINO BLVD LEXINGTON, KY 40511-9998 (800)275-8777			
09/08/2023	12:29 PM		
Product	Qty	Unit Price	
Priority Mail®	1	\$9.65	
Flat Rate Env.			
Chicago IL 60606			
Flat Rate			
Expected Delivery Date			
Mon 09/11/2023			
Insurance		\$0.00	
Up to \$100.00 included			
Certified Mail®		\$4.35	
Tracking #:			
9589 0710 5270 0895 5932 26			
Return Receipt		\$3.55	
Tracking #:			
9590 9402 6280 0274 5695 42			
Total		\$17.55	
Priority Mail®	1	\$9.65	
Flat Rate Env.			
Deerfield, IL 60015			
Flat Rate			
Expected Delivery Date			
Mon 09/11/2023			
Insurance		\$0.00	
Up to \$100.00 included			
Certified Mail®		\$4.35	
Tracking #:			
9589 0710 5270 0895 5932 33			
Return Receipt		\$3.55	
Tracking #:			
9590 9402 6280 0274 5695 35			
Total		\$17.55	
Grand Total:		\$35.10	
Cash		\$23.00	
Credit Card Remit		\$12.10	
Card Name: VISA			
Account #: XXXXXXXXXX5592			
Approval #: 008730			
Transaction #: 606			
AID: A0000000031010		Chip	
AL: VISA CREDIT			
PIN: Not Required			

EE 33
593233
9595887007105270
U.S. Postal Service
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

Certified Mail Fee \$ 17.00

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$
 Return Receipt (electronic) \$
 Certified Mail Restricted Delivery \$
 Adult Signature Required \$
 Adult Signature Restricted Delivery \$
Postage \$ 17.00

Total Postage and Fees \$ 34.00

Sent To _____
Street and Apt. No., or PO Box No. _____
City, State, ZIP+4 _____

MAIN POST OFFICE
Postmark Here
SEP - 8 2023
LEXINGTON KY 40511-9300

PS Form 3800, January 2023 GSN 53002-0003904 See Reverse for Instructions

The USPS Green Return Receipt was lost in transit, and never was returned to the sender.

They did, however, provide the attached E-pad Proof of Delivery for tracking # 9589071052700895593233.



September 21, 2023

Dear Ryan Messner:

The following is in response to your request for proof of delivery on your item with the tracking number:
9589 0710 5270 0895 5932 33.

Item Details

Status: Delivered, Front Desk/Reception/Mail Room
Status Date / Time: September 11, 2023, 12:01 pm
Location: DEERFIELD, IL 60015
Postal Product: Priority Mail®
Extra Services: Certified Mail™
Up to \$100 insurance included

Shipment Details

Weight: 3.0oz

Destination Delivery Address

Street Address: 520 LAKE COOK RD STE 315
City, State ZIP Code: DEERFIELD, IL 60015-4926

Recipient Signature

Signature of Recipient:

Ryan
Sign
BO Black
315

Address of Recipient:

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

(Form 2500A) (12/15)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

SURGALIGN HOLDINGS, INC., et al.) Chapter 11
) Case No. 23-90731

RYAN MESSNER,) Adv. Proc.
) Case No. 23-03150

Plaintiff(s),)

v.)

SURGALIGN HOLDINGS, INC.,)

Defendant(s).)

SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to file a motion or answer to the complaint which is attached to this summons with the clerk of the bankruptcy court within 21 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

Address of the clerk (Correspondence):

Nathan Ochsner
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Address of the clerk (Overnight Delivery):

Nathan Ochsner
Clerk of Court
515 Rusk Avenue
Houston, TX 77002

(Form 2500A) (12/15)

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and Address of Plaintiff's Attorney (pro se):

(MAILING Address)

Ryan Messner
620 Adcolor Drive
Lexington, KY 40511

(PHYSICAL Address)

Ryan Messner
570 Camphor Way
Lexington, KY 40509

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

**IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE
DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE
BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST
YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

NATHAN OCHSNER (Clerk of the Bankruptcy Court)

Date: SEP 01 2023

By:

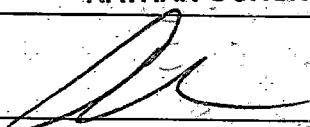
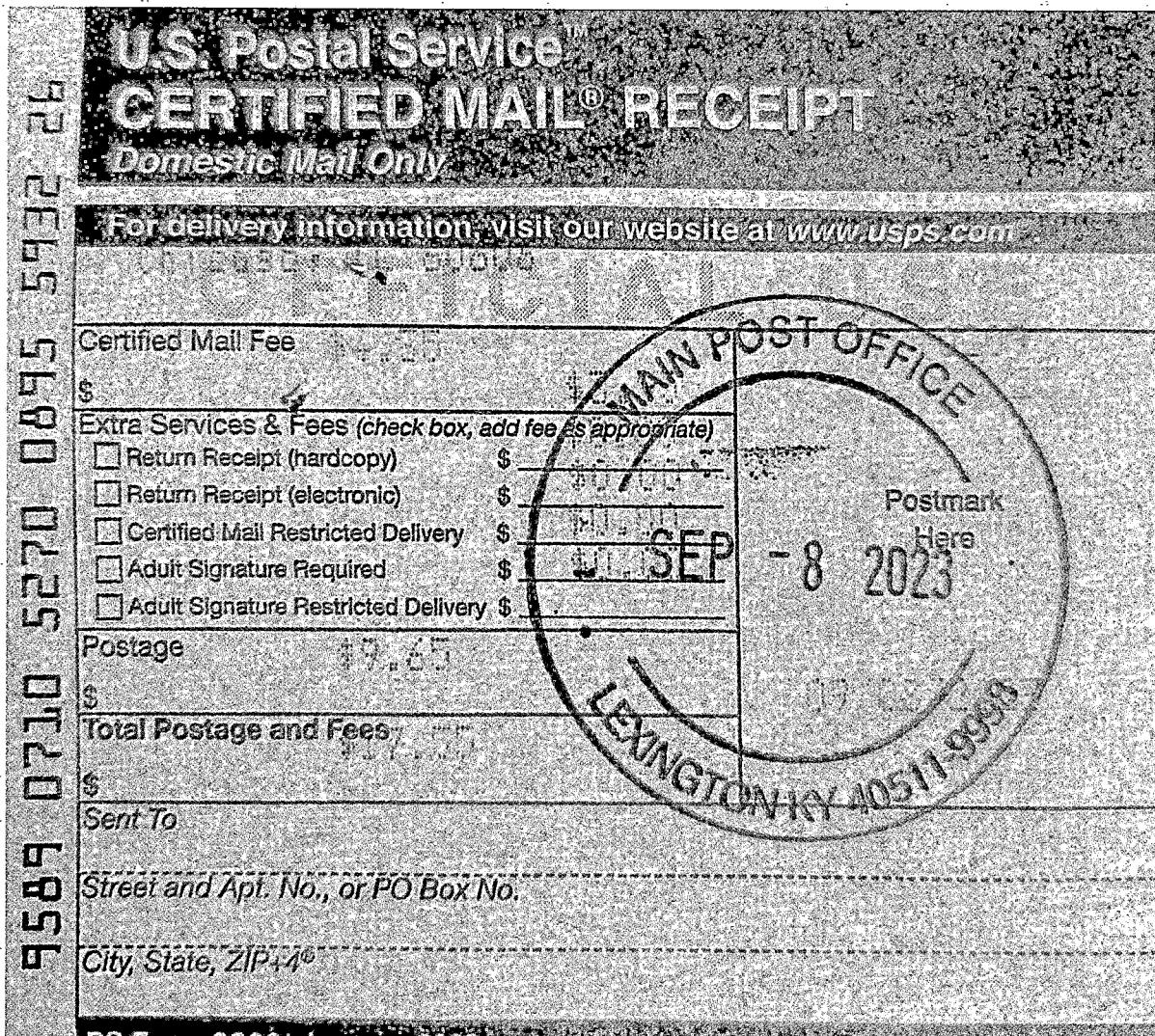

(Deputy Clerk)

Exhibit C
(Process Receipt, Return, and Summons)

UNITED STATES POSTAL SERVICE.			
LEXINGTON 1088 NADINO BLVD LEXINGTON, KY 40511-9998 (800)275-8777			
09/08/2023	12:29 PM		
Product	Qty	Unit Price	
Priority Mail®	1	\$9.65	
Flat Rate Env.			
Chicago, IL 60606			
Flat Rate			
Expected Delivery Date			
Mon 09/11/2023			
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Up to \$100.00 included			
Certified Mail®		\$4.35	
Tracking #:			
9589 0710 5270 0895 5932 26			
Return Receipt		\$3.55	
Tracking #:			
9590 9402 6280 0274 5695 42			
Total		\$17.55	
Priority Mail®	1	\$9.65	
Flat Rate Env.			
Deerfield, IL 60015			
Flat Rate			
Expected Delivery Date			
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9590 9402 6280 0274 5695 35			
Total		\$17.55	
Grand Total:		\$35.10	
Cash		\$20.00	
Credit Card Remit		\$12.10	
Card Name: VISA			
Account #: XXXXXXXXXX5592			
Approval #: 008730			
Transaction #: 606			
AID: A0000000031010		Chip	
AL: VISA CREDIT			
PIN: Not Required			





September 29, 2023

Dear Ryan Messner:

The following is in response to your request for proof of delivery on your item with the tracking number:
9589 0710 5270 0895 5932 26.

Item Details

Status: Delivered, Front Desk/Reception/Mail Room
Status Date / Time: September 12, 2023, 11:11 am
Location: CHICAGO, IL 60606
Postal Product: Priority Mail®
Extra Services: Certified Mail™
Up to \$100 insurance included

Shipment Details

Weight: 3.0oz

Destination Delivery Address

Street Address: 111 S WACKER DR STE 5100
City, State ZIP Code: CHICAGO, IL 60606-4418

Recipient Signature

Signature of Recipient:

CW-19
Del to mailbox

Address of Recipient:

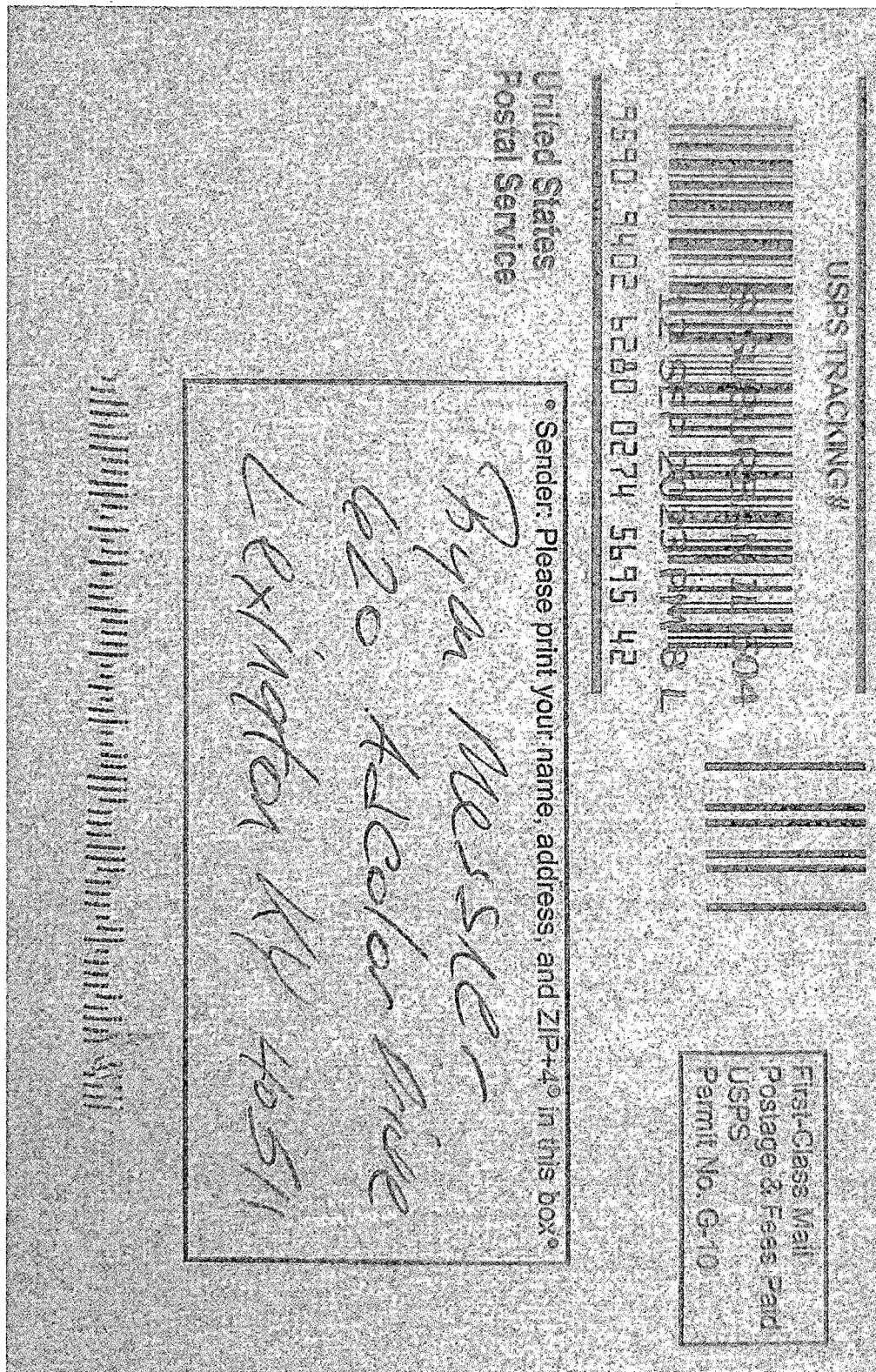
111 S Wacker

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

SENDER INFORMATION RECEIVER INFORMATION	
<input checked="" type="checkbox"/> Complete items 1, 2, and 3 <input checked="" type="checkbox"/> Print name and address on the reverse side and enclose the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or write front if space permits.	
Please Addressed to: <i>Mr & Mrs Walker Blue 1100 S 500 E Logan, UT 84321</i>	
A. Signature 	
B. Received by (Print Name) 	
C. Date of Service 10/04/23	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2020 PSN 7530-02-000-5053 Domestic Return Receipt	



(Form 2500A) (12/15)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

SURGALIGN HOLDINGS, INC., et al.

) Chapter 11
Case No. 23-90731

RYAN MESSNER,

) Adv. Proc.
Case No. 23-03150

Plaintiff(s),

v.

SURGALIGN HOLDINGS, INC.,

Defendant(s).

SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to file a motion or answer to the complaint which is attached to this summons with the clerk of the bankruptcy court within 21 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

Address of the clerk (Correspondence): Address of the clerk (Overnight Delivery):

Nathan Ochsner
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Nathan Ochsner
Clerk of Court
515 Rusk Avenue
Houston, TX 77002

(Form 2500A) (12/15)

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and Address of Plaintiff's Attorney (pro se):

(MAILING Address)

Ryan Messner
620 Adcolor Drive
Lexington, KY 40511

(PHYSICAL Address)

Ryan Messner
570 Camphor Way
Lexington, KY 40509

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

**IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE
DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE
BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST
YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

NATHAN OCHSNER

(Clerk of the Bankruptcy Court)

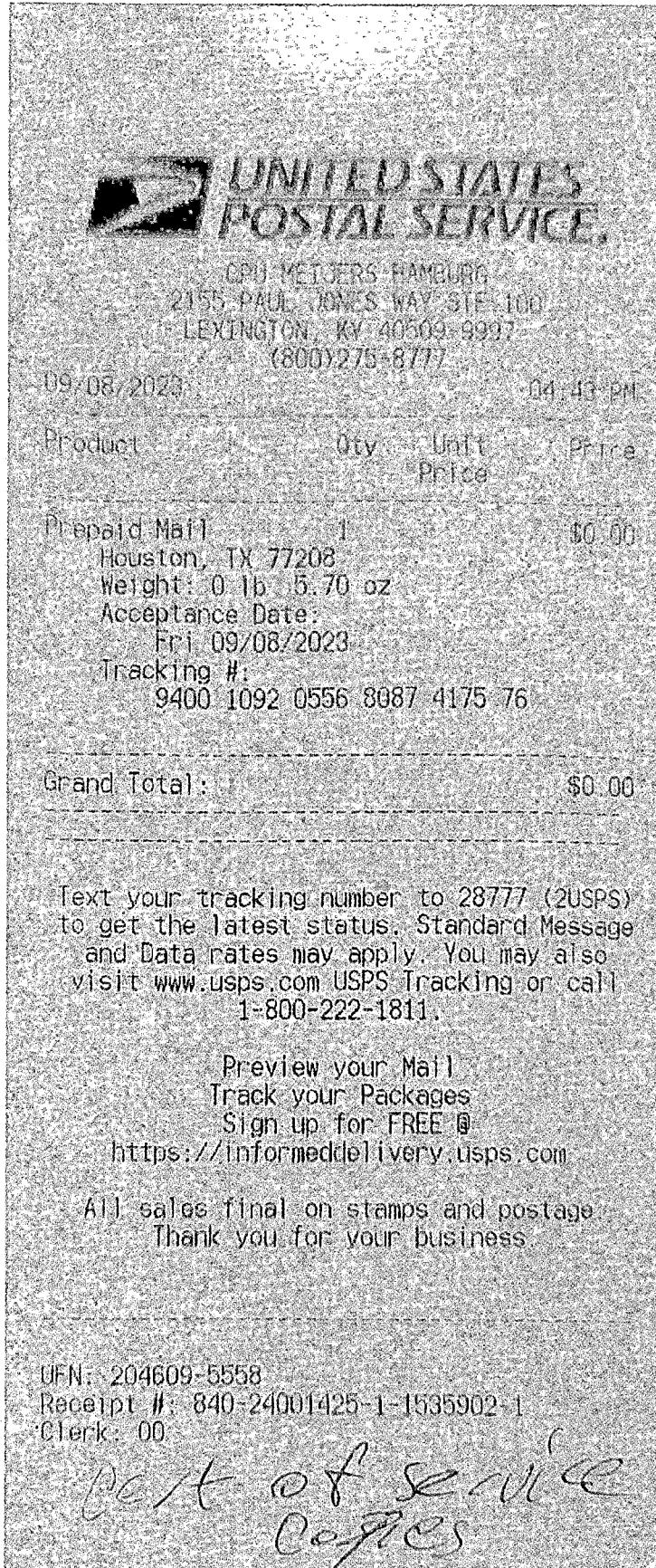
Date: SEP 01 2023

By:

(Deputy Clerk)

Exhibit D

(Service Completion Proof of Delivery to Court)



(Form 2500A) (12/15)

CERTIFICATE OF SERVICE

I, RYAN MESSNER, certify that service of this summons and a copy of the complaint was made August 30, 2023 by:

Mail service: United States certified mail, postage fully pre-paid, addressed to:

Surgalign Holdings, Inc., Attn: Christopher Thunander,
520 Lake Cook Rd, Suite 315, Deerfield, IL 60015

Personal Service: By leaving the process with the defendant or with an officer or agent of defendant at:

Residence Service: By leaving the process with the following adult at:

Certified Mail Service on an Insured Depository Institution: By sending the process by certified mail addressed to the following officer of the defendant at:

Publication: The defendant was served as follows: [Describe briefly]

State Law: The defendant was served pursuant to the laws of the State of _____, as follows: [Describe briefly]

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

Under penalty of perjury, I declare that the foregoing is true and correct.

August 30, 2023

Signature

Ryan Messner, Plaintiff, pro se
ryanmessner@hotmail.com
570 Camphor Way
Lexington, KY 40509
859.559.7985

(Form 2500A) (12/15)

CERTIFICATE OF SERVICE

I, RYAN MESSNER, certify that service of this summons and a copy of the complaint was made August 30, 2023 by:

Mail service: United States certified mail, postage fully pre-paid, addressed to:

White & Case LLP, Attn: Gregory F. Pesce, 111 South Wacker Drive, Suite 5100, Chicago, IL 60606

Personal Service: By leaving the process with the defendant or with an officer or agent of defendant at:

Residence Service: By leaving the process with the following adult at:

Certified Mail Service on an Insured Depository Institution: By sending the process by certified mail addressed to the following officer of the defendant at:

Publication: The defendant was served as follows: [Describe briefly]

State Law: The defendant was served pursuant to the laws of the State of _____, as follows: [Describe briefly]

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

Under penalty of perjury, I declare that the foregoing is true and correct.

August 30, 2023

Signature

Ryan Messner, Plaintiff, pro se
ryanmessner@hotmail.com
570 Camphor Way
Lexington, KY 40509
859.559.7985

USPS Tracking®

[FAQs >](#)

Tracking Number:

[Remove X](#)

9400109205568087417576

[Copy](#)

[Add to Informed Delivery \(<https://informeddelivery.usps.com/>\)](#)

Latest Update

Your item has been delivered and is available at a PO Box at 11:07 am on September 11, 2023 in HOUSTON, TX 77208.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

Feedback

Delivered

Delivered, PO Box

HOUSTON, TX 77208

September 11, 2023, 11:07 am

[See All Tracking History](#)

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates 

USPS Tracking Plus® 

Product Information 

[See Less ^](#)

[Track Another Package](#)

Enter tracking or barcode numbers